

2010



Judicial Council of

Virginia

Report to the General Assembly and
Supreme Court of Virginia



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Judicial Council of Virginia

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General Assembly
and
Supreme Court of Virginia**

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The Judicial Council of Virginia
2010 Report to the General Assembly and Supreme Court of Virginia
Supreme Court of Virginia, Office of the Executive Secretary
Richmond, Virginia
Published January 2011

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January 12, 2011

TO: Members of the General Assembly and Justices of the Supreme Court of Virginia

I am pleased to submit the 2010 Report of the Judicial Council of Virginia as required by Code § 17.1-705. Despite the economic challenges that have continued to confront the Commonwealth, the judicial system has remained dedicated to providing justice and improving services to our fellow Virginians. Budgetary constraints have occasioned some inconveniences and reductions in services; however, through a commitment to planning and the guidance of the Judicial Council and other leaders, the Judiciary has succeeded in the advancement of several initiatives during the year that will be of long-term benefit to the courts and the general public.

In 2010, Virginia's judicial system released a *Pandemic Influenza Bench Book for Virginia's Court System*, a major achievement toward the improvement of court system preparedness for health-related emergencies. Following a recommendation of the Commission on Mental Health Law Reform, the Judicial Council has approved amendments to the *Standards to Govern the Appointment of Guardians Ad Litem for Children* that are intended to ensure that attorneys who are qualified to represent children as guardians *ad litem* obtain a basic knowledge of potential mental health issues that they might encounter. During the past year, the Judiciary also continued its work towards the realization of one of its long-time goals – the implementation of an electronic filing system – an achievement that will provide numerous benefits and cost savings to the courts, attorneys, state agencies, and businesses that file cases in Virginia courts.

Recognizing the importance of successfully handling the opportunities and problems that change can present, Virginia's courts remain committed to a future-oriented comprehensive planning process. In that regard, the Supreme Court of Virginia gave instructions to the Office of the Executive Secretary this year to begin implementation of selected recommendations of the Judiciary's second futures commission that were previously approved by the Judicial Council. In approving these recommendations for action, the Court has been mindful not only of the policy and legal considerations associated with the recommendations, but also of the resource requirements they would entail given the Commonwealth's current budgetary limitations.

As I conclude my final year as Chief Justice of the Supreme Court of Virginia and Chair of the Judicial Council, I wish to express my gratitude for your continued confidence in and support for Virginia's judicial system.

Very truly yours,

Leroy Rountree Hassell, Sr.
Leroy Rountree Hassell, Sr.

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*By Invitation of the Chief Justice

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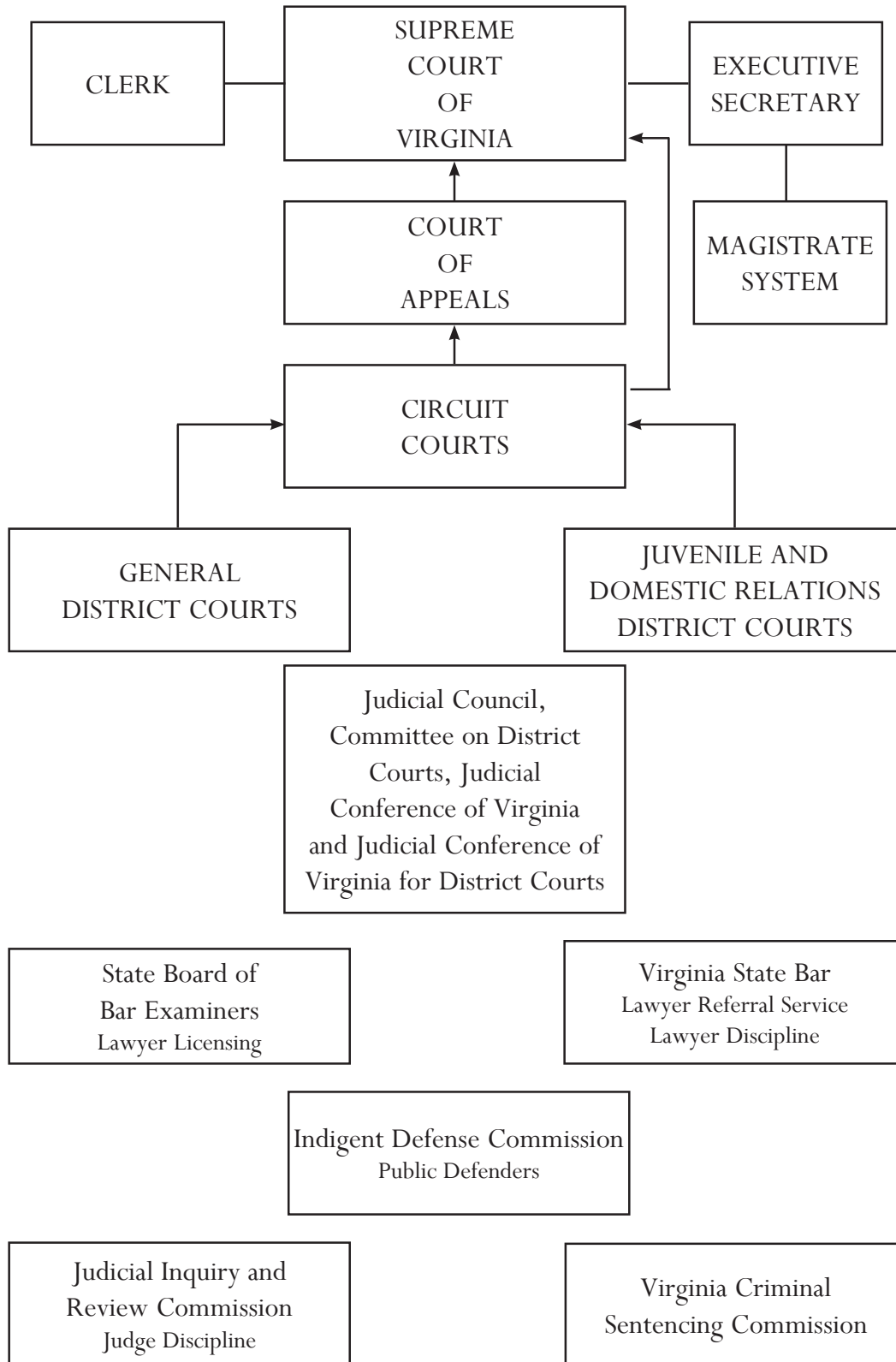
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*By Invitation of the Chief Justice

VIRGINIA JUDICIAL BRANCH



Judicial Council of

Virginia



*Proceedings of the
Judicial Council*

2010

Chapter 1

Proceedings of the Judicial Council of Virginia

INTRODUCTION

The Judicial Council of Virginia was established by statute in 1930. Pursuant to Va. Code § 17.1-703, it is charged with making a continuous study of the organization, rules, procedures and practice of the Judicial System of the Commonwealth of Virginia, including examining the work accomplished and results produced by the Judicial System. Providing guidance to the court system's comprehensive planning process is a central component of these responsibilities.

During 2010, the Judiciary moved forward on a number of long-term strategic initiatives. Among these were efforts stemming from the work of the Pandemic Flu Preparedness Commission and the Commission on Mental Health Law Reform. In addition, the Judicial System advanced its implementation of electronic filing in the circuit courts, an effort for which the Judicial Council approved a number of proposed rules changes. The Supreme Court of Virginia adopted selected recommendations from the second Futures Commission; these recommendations had been approved previously by the Judicial Council and will inform the Judiciary's Comprehensive Planning Process in future years. In addition to its own internal efforts to implement the current Strategic Plan, the Office of the Executive Secretary (OES) is developing a toolkit that will help local trial courts to develop and implement plans to support the court system's mission. The information in this report is provided in order to inform members of the General Assembly, judges and court personnel, the Bar, media, and the public about the Judiciary's efforts to better serve the citizens of Virginia. This report also sets forth the legislative recommendation of the Judicial Council for the 2011 Session of the General Assembly.

The information in this report is provided in order to inform members of the General Assembly, judges and court personnel, the Bar, media, and the public about the Judiciary's efforts to better serve the citizens of Virginia.

LEGISLATIVE PROPOSAL FOR THE 2011 SESSION OF THE GENERAL ASSEMBLY

The Retirement Age for Judges

The Judicial Council of Virginia recommends a proposal to increase the mandatory retirement age for judges from 70 to 73.

PROCEEDINGS OF THE JUDICIAL COUNCIL

Report of the Pandemic Flu Preparedness Commission

The chapters of this new bench book include compilations of the laws that are applicable in Virginia in the context of health emergencies as well as practical guidance for the preparation of pandemic continuity of operations plans.

As was reported in Chapter 4 of the 2009 Report of the Judicial Council, Chief Justice Leroy Rountree Hassell, Sr., formed a Pandemic Flu Preparedness Commission in early 2009 to develop policies and protocols that would help ensure the safe and effective operation of Virginia's courts in the event of pandemic influenza or other contagious diseases. In 2010, Judge Westbrook J. Parker, the Chair of the Commission, presented the Commission's work product, the *Pandemic Influenza Bench Book for Virginia's Court System*, to the Judicial Council. The chapters of this new bench book include compilations of the laws that are applicable in Virginia in the context of health emergencies as well as practical guidance for the preparation of pandemic continuity of operations plans. The Judicial Council approved the Bench Book, which was subsequently adopted by the Supreme Court of Virginia. It is now posted on the Judicial System's Web site at <http://www.courts.state.va.us/programs/pfp/benchbook.pdf>.

Change to the Standards for Guardians *ad Litem*

At its meeting on April 23, 2010, the Judicial Council directed that a working group be established to review the educational requirements of the qualification standards for guardians *ad litem* for children. In response to recommendations of the Commission on Mental Health Law Reform, this group was instructed to study whether attorneys who are qualified to represent children as guardians *ad litem* should be required to obtain a basic knowledge of potential mental health issues associated with children and adolescents that they might encounter in their representation. The working group met during the summer and reported to the Judicial Council at its meeting on October 13. The working group recommended that the *Standards to Govern the Appointment of Guardians Ad Litem for Children* be amended so that the minimum seven hours of mandatory continuing legal education required for attorney qualification include content regarding the mental health aspects of child abuse and neglect. The recommendations included examples of appropriate content that might satisfy the new requirement. Lastly, the working group recommended that the Office of the Executive Secretary, in its administration of the qualification program for guardians *ad litem* for children, track the attendance of qualified guardians *ad*

litem for children at continuing education programs that address mental health issues associated with children and adolescents. Thereafter, the working group, as directed by the Council, would reconvene to consider the information accumulated from this tracking effort on this topic, and a follow-up report would be made to the Judicial Council on or after July 1, 2012. Council adopted the working group's recommendations at the October meeting.

Electronic Filing in Virginia's Courts

In support of efforts to implement the electronic filing (E-Filing) of documents in Virginia's courts, proposed revisions to the Rules of Court were published for comment in the spring. The amendments that were ultimately approved by the Advisory Committee on Rules of Court were presented to the Judicial Council at its October 13 meeting. The central amendment was a significant revision to Rule 1:17 regarding "Electronic Filing and Service." The other amendments consisted of several changes to trial-level rules, primarily to add specific references to Rule 1:17 and to specify that electronic images of documents were acceptable. An initial report of the Judiciary's implementation of E-Filing was presented in Chapter 3 of the 2009 Report of the Judicial Council. An update on these implementation efforts can be found in Chapter 3 of this report.

The Honorable Harry L. Carrico Outstanding Career Service Award

In 2004, the Judicial Council of Virginia created an Outstanding Career Service Award in honor of the Honorable Harry L. Carrico, retired Chief Justice of Virginia. This award is presented annually to one who, over an extended career, demonstrates exceptional leadership in the administration of the courts while exhibiting the traits of integrity, courtesy, impartiality, wisdom, and humility. The 2010 recipient of this award was the Honorable Barbara Milano Keenan.

Before her appointment to the Fourth U.S. Circuit Court of Appeals in 2010, Judge Keenan served the Commonwealth first as a judge and then as a justice. During her 30 years with Virginia's Judiciary, she served on courts at every level of the Commonwealth's Judicial System. She has exemplified all of the attributes of an outstanding recipient of this award. She has been a leader in the administration of the courts, serving on and sometimes chairing major initiatives of the Virginia

The 2010 recipient of [the Harry L. Carrico Outstanding Career Service Award] was the Honorable Barbara Milano Keenan.

Judicial System including:

- Supreme Court Judicial Wellness Initiative (Chair)
- Supreme Court of Virginia Historical Commission (Vice Chair)
- Virginia Criminal Justice Conference
- Judicial Performance Evaluation Commission (Chair)
- Commission on Virginia Courts in the 21st Century (Planning/ Executive Committee)
- Virginia State Crime Commission Subcommittee on Actual Innocence Legislation
- Bench-Bar Relations Committee to Develop New Juror Orientation Video
- Interlocutory Appeals Legislative Committee
- Commission on the Future of Virginia's Judicial System, Quality of Justice Task Force (Chair)
- Supreme Court Commission on Jury Management

Prior to her service on the bench, Judge Keenan was an assistant Commonwealth's Attorney in Fairfax and was appointed by the Fairfax Circuit Court to the Board of Zoning Appeals and as a Commissioner in Chancery. Throughout her long career, she has also supported many organizations of the bar, educational system, and general community, serving as a member, panelist, mentor, and speaker. She has always exhibited the traits of integrity, courtesy, impartiality, wisdom, and humility that are the essence of this award.

Chapter 2

Ongoing Efforts in the Comprehensive Planning Process

A comprehensive planning process that includes value-oriented strategy development and assigns specific implementation responsibilities is a fundamental instrument of sound management. Planning helps focus the components of an organization—its subdivisions and its individual workers—on their respective roles in accomplishing the organization’s mission. In the face of change—of new opportunities and challenges—planning improves decision making so that an organization can prioritize activities and make the most effective use of finite resources. Planning is therefore a valuable tool for managing complexity and encouraging creative leadership.

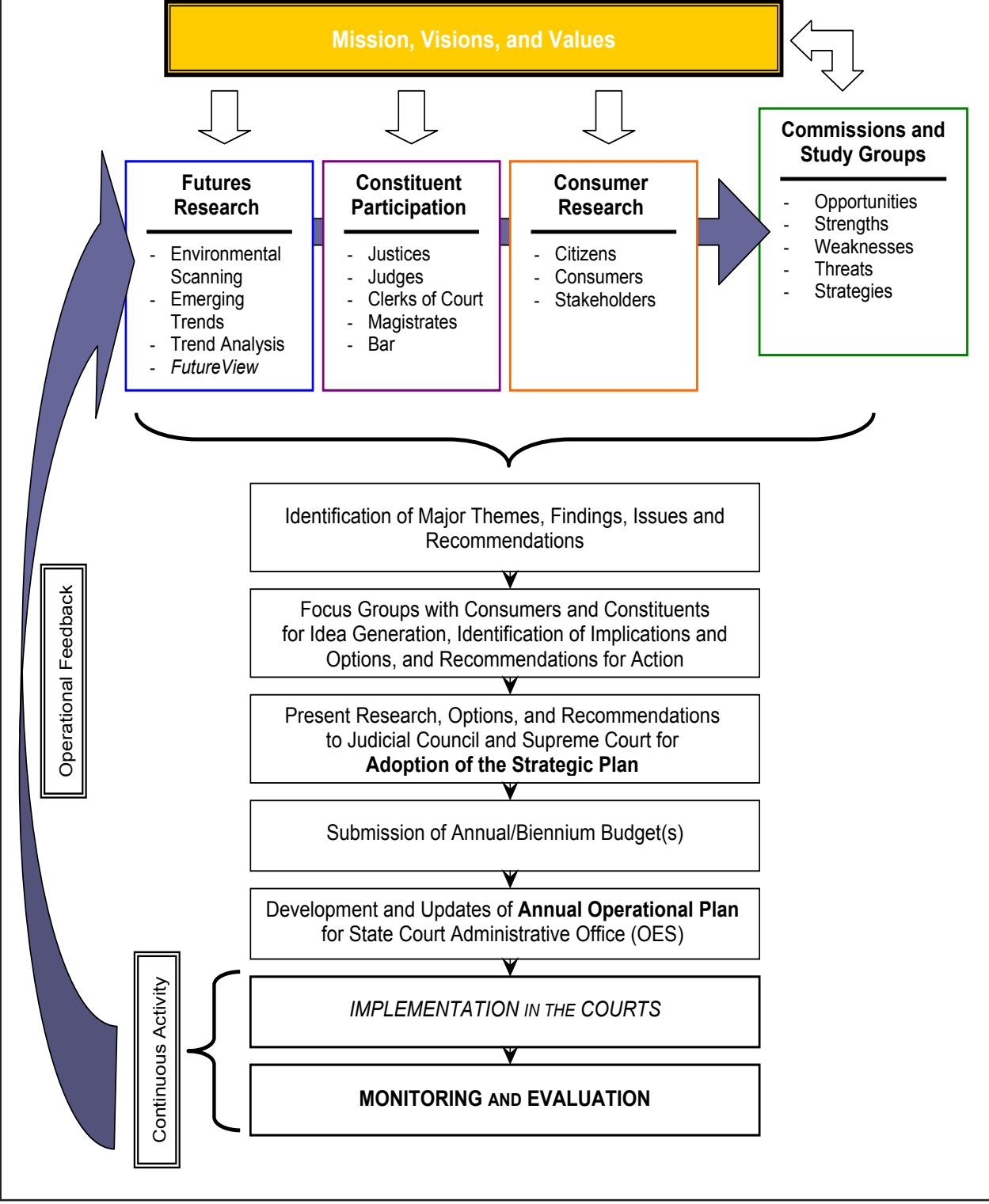
With its hundreds of judges and magistrates, thousands of clerks and other employees, and millions of new cases and transactions every year, spread over a diverse state serving almost eight million residents, the Virginia Judicial System is a large and complex organization. In their efforts to provide independent, accessible, responsive forums for the just resolution of disputes, the Virginia courts help preserve the rule of law that is critical to sustaining the social and economic health of our Commonwealth and protect the constitutional rights and liberties that we all cherish. Although judicial institutions are, by design, resistant to rapid changes that can create uncertainty and undermine the rule of law, the Virginia courts have recognized that they must be responsive to societal changes that can affect operating conditions and to the public’s expectations for how the courts will ultimately deliver their services.

As a means to help manage change, the Judicial Council of Virginia instituted the Virginia Judiciary’s original strategic planning process in 1976. Since that time, the Judicial Council has provided leadership in the planning process, reviewing strategic plans and the recommendations of a wide variety of commissions and study groups. As the Office of the Executive Secretary (OES) and other components of the Judiciary work to implement approved strategies and recommendations, the Judicial Council provides valuable policy guidance and support. For example, the Judicial Council’s 2010 recommendations for revisions to the Rules of Court will help in the implementation of electronic filing, which has been a long-term goal of the Virginia courts.

[P]lanning improves decision making so that an organization can prioritize activities and make the most effective use of finite resources.

[T]he Virginia courts have recognized that they must be responsive to societal changes that can affect operating conditions and to the public’s expectations for how the courts will ultimately deliver their services.

THE COMPREHENSIVE STRATEGIC AND OPERATIONAL PLANNING SYSTEM FOR VIRGINIA COURTS



Futures Commissions

From 1987 to 1989, the Virginia Judiciary supported its first Commission on the Future of Virginia's Judicial System. The Commission's charge was to develop a "vision" for an effectively-functioning justice system for the twenty-first century reflecting the ideas, desires, and study of a diverse group of Virginians. This Commission was among the first of several similar initiatives that were conducted by courts among the 50 states during the late 1980s and early 1990s. In Virginia, the recommendations and background work of this first Futures Commission were closely reviewed and ultimately approved by the Judicial Council. The Judiciary's current mission statement was adopted in conjunction with these efforts, and the essential characteristics of the current comprehensive planning process were developed during this period. It was not possible to immediately implement every recommendation that the Council approved (indeed, if it had been possible, then that would have been a sign that the Commission had not reached very far in developing its recommendations). For some recommendations, technological advances, financial resources, and changes to existing laws were required. Nevertheless, over most of the next twenty years, by the direction of the Supreme Court of Virginia, the efforts of the OES, and the continuing advice of the Judicial Council, most of the first Futures Commission's recommendations were implemented. These included improvement in the accessibility of court records via remote computer access, the adoption of time standards for the processing of trial and appellate cases, the development of sentencing guidelines to reduce disparity, and the expansion of alternative dispute resolution services for a variety of case types.

By the early twenty-first century, Virginia's court leaders recognized that there might be benefit to convening another futures commission. A leading principle of planning activity calls for periodic reexamination of organizational mission, visions, and strategies to be certain that they are still appropriate for an evolving institution in an ever-changing world. Consequently, Chief Justice Leroy R. Hassell, Sr., established Virginia's second court futures commission, Virginia Courts In the 21st Century: To Benefit All, To Exclude None, in 2005 and challenged it to look at what the citizens of the Commonwealth would need from the Judicial System in the year 2016 and beyond. This second Futures Commission presented its report to the Chief Justice and the Judicial Council in 2007. Of the 198 recommendations that the Commission

A leading principle of planning activity calls for periodic reexamination of organizational mission, visions, and strategies to be certain that they are still appropriate for an evolving institution in an ever-changing world.

In reviewing the recommendations of the Second Futures Commission that were approved by the Judicial Council, the Supreme Court of Virginia has been mindful not only of policy and legal considerations but also of the resource requirements that would affect implementation efforts during the Commonwealth's current budgetary restrictions.

submitted, the Judicial Council ultimately approved 194—five with modifications—and offered the Supreme Court an alternative in place of one recommendation (see Chapter 3 of the 2008 Report of the Judicial Council).

In reviewing the recommendations of the Second Futures Commission that were approved by the Judicial Council, the Supreme Court of Virginia has been mindful not only of policy and legal considerations but also of the resource requirements that would affect implementation efforts during the Commonwealth's current budgetary restrictions. Based upon careful prioritization, the Court informed the OES in 2010 that the Judicial System should begin or continue current efforts toward the fulfillment of selected recommendations. The OES is currently studying these recommendations before integrating them with the strategies of the current strategic plan and assigning task responsibilities to OES departments.

Examining the Supreme Court-approved recommendations in terms of their support for the visions of the current Strategic Plan, one notes with respect to Vision 1 (Judicial Independence) that the Court remains concerned that compensation for judges remain sufficient to attract and retain the best qualified people and that judges continue to receive appropriate education and training. Recommendations approved in support of Vision 2 (Due Process) focus on the jury, in particular on the quality of citizens' experience of jury service (e.g., encouraging courtesy toward jurors and respect for their time) rather than only on reforms to the jurors' role in the judicial process. Under Vision 3 (Access to Justice), the recommendations approved by the Court address several types of barriers—financial, linguistic, and physical—and affirm that Virginia should foster increased voluntary use of alternative dispute resolution methods. Supporting Vision 4 (Responsiveness to Changing Needs), the Court acknowledges that the court system should respond to anticipated demographic changes and maintain flexibility in the adjudicative process through such possible options as restorative justice methods and specialty dockets. For Visions 5 (Speed, Economy, and Fairness) and 6 (Accountable Management), related recommendations emphasize the use of enhanced technologies for case management and financial transactions; effective organizational structures and exercise of supervisory authority; adequate training and certification for those who work within the court system; and appropriate levels of security for judges, participants in legal processes, and court records. Lastly, recommendations approved by the

THE JUDICIARY'S CURRENT MISSION AND VISIONS

OUR MISSION

To provide an independent, accessible, responsive forum for the just resolution of disputes in order to preserve the rule of law and to protect all rights and liberties guaranteed by the United States and Virginia constitutions.

VISION 1

Virginia's courts will be distinctive and independent—as a branch of government and in judicial decision making.

VISION 2

Virginia's courts will ensure due process through the equal application of law and procedure to all cases and controversies.

VISION 3

Virginia's courts will maintain human dignity and provide effective access to Justice for all persons.

VISION 4

Virginia's courts will be responsive to the changing needs of society—in the development and operation of the law, in the functions of the judicial process, and in the delivery of public services.

VISION 5

Virginia's courts will be expeditious, economical, and fair in the resolution of disputes.

VISION 6

Virginia's courts will demonstrate accountability to the public through effective management practices, including the use of the most appropriate processes and technologies for court operations.

VISION 7

Virginia's courts will operate in a manner that fosters public trust and confidence in and respect for the courts and for legal authority.

In general, the Operational Plan is a record of the current ways in which the OES, in its interactions with the many components of the Judicial System, seeks to do its part to carry out the strategies of the Strategic Plan and thereby fulfill the Judicial System's mission.

Court support investments in customer service and better communications with the public that are consistent with the aims of Vision 7 (Public Trust and Confidence).

The Operational Plan

The principle means by which the strategic plans of the Virginia Judicial System have been implemented over time is the Operational Plan of the OES. The Operational Plan consists of specific task responsibilities that are assigned to the various departments within the OES. Some of these tasks are finite, having specific beginning and ending points; others are ongoing, such as handling payroll and accounts payable. Some tasks are solely the responsibility of one department, such as providing legal research services for judges or foreign language services, while others (e.g., education programs for judges and clerks) involve many departments. Throughout any given year, new tasks are added for new initiatives, and old tasks are deleted as they are completed. Directives from the Supreme Court and recommendations from commissions and study groups may add or change tasks and alter priorities within the Operational Plan. In general, the Operational Plan is a record of the current ways in which the OES, in its interactions with the many components of the Judicial System, seeks to do its part to carry out the strategies of the Strategic Plan and thereby fulfill the Judicial System's mission.

Local Planning

Fulfillment of the Judicial System's mission cannot be achieved by the OES alone. Rather, the achievement of the mission is the duty of the entire System. This fact means that ultimate success or failure depends greatly on the judges, clerks, and magistrates throughout the state, particularly on those interacting with the public at the local level. Furthermore, all planning cannot take place at the state level. Although trial court judges and clerks have always taken part in the cycles of the comprehensive planning process that have developed system-wide Strategic Plans over the years, the reality is that local courts have unique characteristics—posing both opportunities and challenges—that may need to be addressed with plans specific to each locality. These local plans need not be comprehensive ones that tackle every aspect of local operations; rather, they would deal more often with specific issues that affect local court performance and determine how well a court handles its responsibilities with respect to the Judicial System's larger mission.

The OES continues to provide assistance to local courts in thinking about or carrying out local planning. National organizations in the field of court administration now recognize that visioning and strategic planning skills are among the fundamental competencies that all court leaders should have in order to manage courts effectively. To offer increased support to the trial courts in developing planning capacities, the OES Department of Judicial Planning has begun a new initiative to help trial court leaders plan more effectively.¹ Part of this effort has been to develop a local planning “toolkit” that provides information and guidance in support of planning activities. The OES intends to distribute these toolkits to local courts early in 2011 and follow up this distribution with educational content at training events later in the year.

Conclusion

The comprehensive planning process of the Virginia Judicial System is an ongoing process in which the Judicial Council plays a leading role. The planning process provides long-term guidance to the Judicial System in the fulfillment of its mission. The process draws on multiple inputs, perhaps the most significant of which are recommendations from expert bodies such as Virginia’s First and Second Court Futures Commissions. These inputs help not only in identifying the major strategies that the Judiciary should pursue to fulfill the mission but also in selecting the most appropriate manner in which the components of the Judicial Branch should implement those strategies. Many of these implementation details are captured in the OES Operational Plan, but ultimate success in fulfilling the mission depends far more on the performance of local courts and magistrates’ offices. Planning at the local level can help courts address unique conditions that may affect their performance in the larger scheme of state strategy implementation.

National organizations in the field of court administration now recognize that visioning and strategic planning skills are among the fundamental competencies that all court leaders should have in order to manage courts effectively.

¹National Association for Court Management (NACM), Core Competencies, <http://www.nacmnet.org/cccg/index.html>.



Chapter 3

Update on the Implementation of E-Filing in Virginia's Courts

The implementation of electronic filing (E-Filing) in Virginia's courts will allow the remote submission of documents required to initiate a case in an electronic format, without the creation of paper documents. The E-Filing System is expected to provide numerous benefits and cost savings to the courts, litigants, attorneys, state agencies, and businesses that file in Virginia courts. It is anticipated that the courts will see a significant reduction in data entry currently associated with opening new cases, as well as a significant reduction in the number of telephone calls and courthouse visits. Over time, the courts should also see a dramatic reduction in paper use and the need for physical storage space for paper case files. Attorneys will be able to submit initial and subsequent filings from any computer with Internet access, with filing hours extended until midnight on any business day. With the E-Filing System, court users will no longer be required to print and deliver documents to the court, thereby saving time, paper, and printing costs.

The creation of an E-Filing capability for Virginia's courts has been part of the Virginia Judicial System's strategic plan since the Commission on the Future of Virginia's Judicial System issued its initial recommendation to create an E-Filing capability in 1989. In 2007, Chief Justice Leroy R. Hassell, Sr., established the Electronic Filing Committee, which is composed of judges, attorneys, clerks of court, and staff members of the Office of the Executive Secretary, to guide the Judicial System's electronic filing initiative. The Honorable Junius P. Fulton, III, judge of the Norfolk Circuit Court, was appointed chairman of the Committee.

The Committee recommended that the initial version of the system address electronic filing of civil cases in circuit court and that the initial pilot site for the system be the Norfolk Circuit Court. Important recommendations from the Committee going into 2010 included:

- The initial version of the E-Filing System should be developed and reviewed by local bar associations and circuit court clerks in order to thoroughly communicate the adopted plan and approach and to solicit additional design feedback from those groups.
- The project team should research criminal filings and civil filings in General District and Juvenile and Domestic Relations District

The Committee recommended that the initial version of the system address electronic filing of civil cases in circuit court and that the initial pilot site for the system be the Norfolk Circuit Court.

Courts to prepare for future versions of the Electronic Filing System beyond 2010.

The E-Filing system prototype was built to allow the project manager to show the look, feel, and functions of the system to several groups to confirm the design and solicit additional feedback.

The E-Filing project made significant progress in 2010. The E-Filing project team had spent the majority of its time in 2009 gathering and documenting system requirements based on the recommendations of the Electronic Filing Committee.¹ The 2010 Session of the General Assembly passed legislation that had been proposed by the Committee and approved by the Judicial Council in 2009, adding clarity and additional provisions to facilitate implementation of E-Filing of civil cases in circuit courts. The Electronic Filing Committee also made several rule change recommendations in 2009 that proceeded through the approval process in 2010. Most notable were the recommended changes to Rule 1:17 which included:

- Electronic Filings will be accepted during normal business hours and until 11:59:59 p.m. on any day that the clerk's office is open
- Electronic confirmations will be sent to the filing party indicating that the document has been successfully filed through the E-Filing system
- Certain specific defects will be allowed to be cured electronically by the filing party over a period of 5 business days

The Committee also recommended several changes to trial-level rules, primarily to add specific references to Rule 1:17 and to specify that electronic images of documents were acceptable. At its October 2010 meeting, the Judicial Council approved these rule changes for final consideration by the Supreme Court of Virginia (see Chapter 4 of this report for additional information about changes to the Rules of Court).

The Electronic Filing project began the shift from requirements and design to implementation in 2010, and the project team made noteworthy advances in programming the E-Filing system. The requirements that had been derived from the recommendations of the Electronic Filing Committee were incorporated into the E-Filing system prototype which was completed in July. The E-Filing system prototype was built to allow the project manager to show the look, feel, and functions of the system to several groups to confirm the design and solicit additional feedback. The prototype performs the functions of the system without the interfaces to the court's actual internal systems.

¹For more detailed information on the background of the electronic filing initiative please refer to Chapter 3 of the 2009 Report of the Judicial Council.

Instead, the interfaces in the prototype are simulated, providing an accurate view of how the system will actually work once the interfaces are in place.

The 2010 meeting of the Electronic Filing Committee was held on August 11. The status of the development of the E-Filing system was reviewed, then the E-Filing system prototype was demonstrated for the first time. The demonstration focused on the attorney and clerk functions of the system, specifically the registration, sign-on, filing, and clerk's review portions of the system. The prototype was very well received by the attending members of the Committee.

During the summer of 2010, Chief Justice Hassell created the Statewide Bar Advisory Commission to review and provide input into the design of the E-Filing system prior to the initial pilot in Norfolk. The Chief Justice appointed Judge Junius P. Fulton, III, to be the Chairman of this new Commission. The Commission's membership includes attorneys, judges, and court clerks from across the state, several of whom have experience with the Federal Court and other E-Filing systems. The E-Filing project team held two hands-on demonstration sessions for Commission members, the first on August 31 and the second on September 17.

In the fall of 2010, Judge Fulton formed a Local Bar Advisory Committee to review and provide input into the development of the E-Filing system. The E-Filing project team held a hands-on demonstration session for the Advisory Committee members on November 10 at Norfolk Circuit Court.

The E-Filing system prototype was well received by both the Statewide Bar Advisory Commission and the Local Bar Advisory Committee. The significant recommendations from Commission and Committee members that are currently under review by the Electronic Filing Committee's subcommittees involve:

- Accommodating *pro hac vice* attorneys on e-filed cases
- Handling cases in which an attorney changes firms
- Limitations on the changes allowed during the filing cure process
- Imposition of document size limitations and subsequent handling procedures
- Accommodating agencies that do not pay filing fees

Once the subcommittee recommendations have been approved by the Electronic Filing Committee and the Court, the design of the user functionality of the E-Filing system will be completed, and the

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Project staff are expecting a six-month pilot project timeline during which any needed system enhancements will be incorporated in the software so that it can be made available to circuit courts across the state.

necessary changes will be incorporated into the prototype. The system interfaces are being designed and developed on a parallel track. The systems interfaces that are required for implementation include:

- The Circuit Court Case Management System—for storage and retrieval of case information
- The Case Imaging System—for storage and retrieval of case documents
- The Financial Management System—for storage and retrieval of case financial information
- The Virginia State Bar Database—for verification of attorney status

The pilot in Norfolk Circuit Court will begin once the functionality changes have been completed and the interfaces to critical systems are functioning. The current plan is to begin the pilot in mid-2011 at the earliest. Project staff are expecting a six-month pilot project timeline during which any needed system enhancements will be incorporated in the software so that it can be made available to circuit courts across the state. Planning to expand e-filing to criminal cases in the circuit courts and to filings in the general and juvenile and domestic relations district courts is on hold pending the availability of additional project resources.

Chapter 4

Recommended Changes to Rules of Court

BACKGROUND

The Constitution of Virginia authorizes the Supreme Court of Virginia to promulgate rules governing the practice and procedures in the courts of the Commonwealth.

In 1974, the Judicial Council of Virginia established an Advisory Committee on Rules of Court to provide members of the Virginia Bar and other interested participants a means of more easily proposing Rule changes to the Council for recommendation to the Supreme Court. The duties of this committee include: (a) evaluating suggestions for modification of the Rules made by the Bench and Bar and recommending proposed changes to the Judicial Council for its consideration; (b) keeping the Rules up to date in light of procedural changes in other jurisdictions; (c) suggesting desirable changes to clarify ambiguities and eliminate inconsistencies in the Rules; and (d) recommending changes in the Rules to keep them in conformity with the Code of Virginia, in order to eliminate possible conflict.

The Judicial Council itself is called upon to continually study and make recommendations to the Supreme Court regarding Rules of Court. Va. Code § 17.1-703. Rules recommended by the Council and subsequently adopted by the Supreme Court are published in Volume 11 of the Code of Virginia. All orders of the Supreme Court amending the Rules, along with an updated version of the Rules showing the amendments as they become effective, are posted on Virginia's Judicial System website at www.courts.state.va.us/courts/scv/rules.html.

The Judicial Council itself is called upon to continually study and make recommendations to the Supreme Court regarding Rules of Court.

RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL IN 2009 AND ADOPTED BY THE SUPREME COURT OF VIRGINIA IN 2010

- Part One Appendix of Forms
 Uniform Pretrial Scheduling Order (Rule 1:18(B))
- Part Two-A Appeals Pursuant to the Administrative Process Act
 (Rules 2A:1 through 2A:6)
- Rule 4:1 General Provisions Governing Discovery
 (subsection (d)(2) added to the Rule)
- Part Five Rules of the Supreme Court
 (rewritten, effective July 1, 2010)
- Part Five-A Rules of the Court of Appeals
 (rewritten, effective July 1, 2010)

RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL TO THE SUPREME COURT OF VIRGINIA AND NOT ADOPTED BY THE SUPREME COURT

- Rule 4:11 Requests for Admission

RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL TO THE SUPREME COURT OF VIRGINIA

(to be considered by the Supreme Court in 2011)

- Rule 1:8 Amendments
- Rule 3:16 New Parties
- Rule 3A:14.1 Confidentiality of Juror Personal Information
- Part Five Rules of the Supreme Court (numerous revisions and clarifications of the recently rewritten Part)
- Part Five-A Rules of the Court of Appeals (numerous revisions and clarifications of the recently rewritten Part)
- Rule 8:5 Court-Ordered Reports (conforming change)
- Rule 8:21 Violation of Court Orders (deletion of rule)

Revisions to Parts One through Four & Parts Seven-A through Eight
(Incorporation of e-Filing Provisions)

- Rule 1:1 Finality of Judgments, Orders and Decrees
- Rule 1:4 General Provisions as to Pleadings
- Rule 1:5 Counsel
- Rule 1:10 Verification

Rule 1:12	Service of Papers after Initial Process
Rule 1:13	Endorsements
Rule 1:16	Filing Format and Procedure
Rule 1:17	Electronic Filing and Service
Part One	Appendix of Forms
	Form 2 Instructions (Rule 1:15(c))
Part One-A	Appendix of Forms
	Form 1 Application to Appear Pro Hac Vice Before A Virginia Tribunal
Rule 2A:3	Record on Appeal
Rule 2A:4	Petition for Appeal
Rule 3:3	Riling of Pleadings; Return of Certain Writs
Rule 3:4	Copies of Complaint
Rule 3:18	General Provisions as to Pleadings
Rule 3:21	Jury Trial of Right
Rule 3:23	Use of Proceedings Before a Commissioner in Chancery
Rule 3A:2	Purpose and Interpretation; Definitions
Rule 3A:9	Pleadings and Motions for Trial; Defenses and Objections
Rule 3A:21	Service and Filing of Papers
Rule 3A:23	Electronic Filing
Rule 4:5	Depositions Upon Oral Examination
Rule 4:6	Depositions Upon Written Questions
Rule 4:7	Use of Depositions in Court Proceedings
Rule 4:8	Interrogatories to Parties
Rule 4:10	Physical and Mental Examination of Persons
Rule 4:11	Requests for Admission
Rule 4:13	Pretrial Procedure; Formulating Issues
Rule 4:15	Motions Practice
Rule 7A:7	Filing Format and Procedure
Rule 7A:11	Endorsements
Rule 7B:6	Verification
Rule 7B:11	Motions to Transfer
Rule 7C:7	Service and Filing
Rule 8:7	Format for Filing
Rule 8:8	Pleadings and Filing
Rule 8:19	Endorsements of Orders



Judicial Council of
Virginia

*Proposed
Legislation*

2010

THE RETIREMENT AGE FOR JUDGES

A BILL to amend and reenact § 51.1-305 of the Code of Virginia, relating to mandatory judicial retirement.

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-305 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-305. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B. Early retirement. - Any member in service who has either (i) attained his fifty-fifth birthday with five or more years of creditable service or (ii) in the case of a member of any of the previous systems immediately prior to July 1, 1970, complied with the requirements for retirement set forth under the provisions of such previous system as in effect immediately prior to July 1, 1970, may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B1. Mandatory retirement. - Any member who attains ~~70~~ 73 years of age shall be retired 20 days after the convening of the next regular session of the General Assembly. ~~However, if the mandatory retirement provisions of this subdivision would require a member of the State Corporation Commission to be retired before the end of his elected term and such retirement would occur during a session of the General Assembly in which the General Assembly is required, pursuant to § 12.1-6, to elect another member or members of the State Corporation Commission to serve either a regular term or a portion of a regular term, such member who otherwise would be subject to the mandatory retirement provisions of this subdivision shall be retired upon the first to occur of (i) the expiration of the term to which he was elected or (ii) 20 days after the commencing of the regular session of the General Assembly that immediately follows the date such member attains 72 years of age. The provisions of this subsection shall apply only to those members who are elected or appointed to an original or subsequent term commencing after July 1, 1993 following his seventy-third birthday.~~

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A or B of this section, if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his appointing authority certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than 90 days prior to the filing of the notice of retirement.

E. Notification of retirement. - In addition to the notice to the Board required by this section, the same notice shall be given by the member to his appointing authority. If a member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification to the Board on his behalf.



Judicial Council of

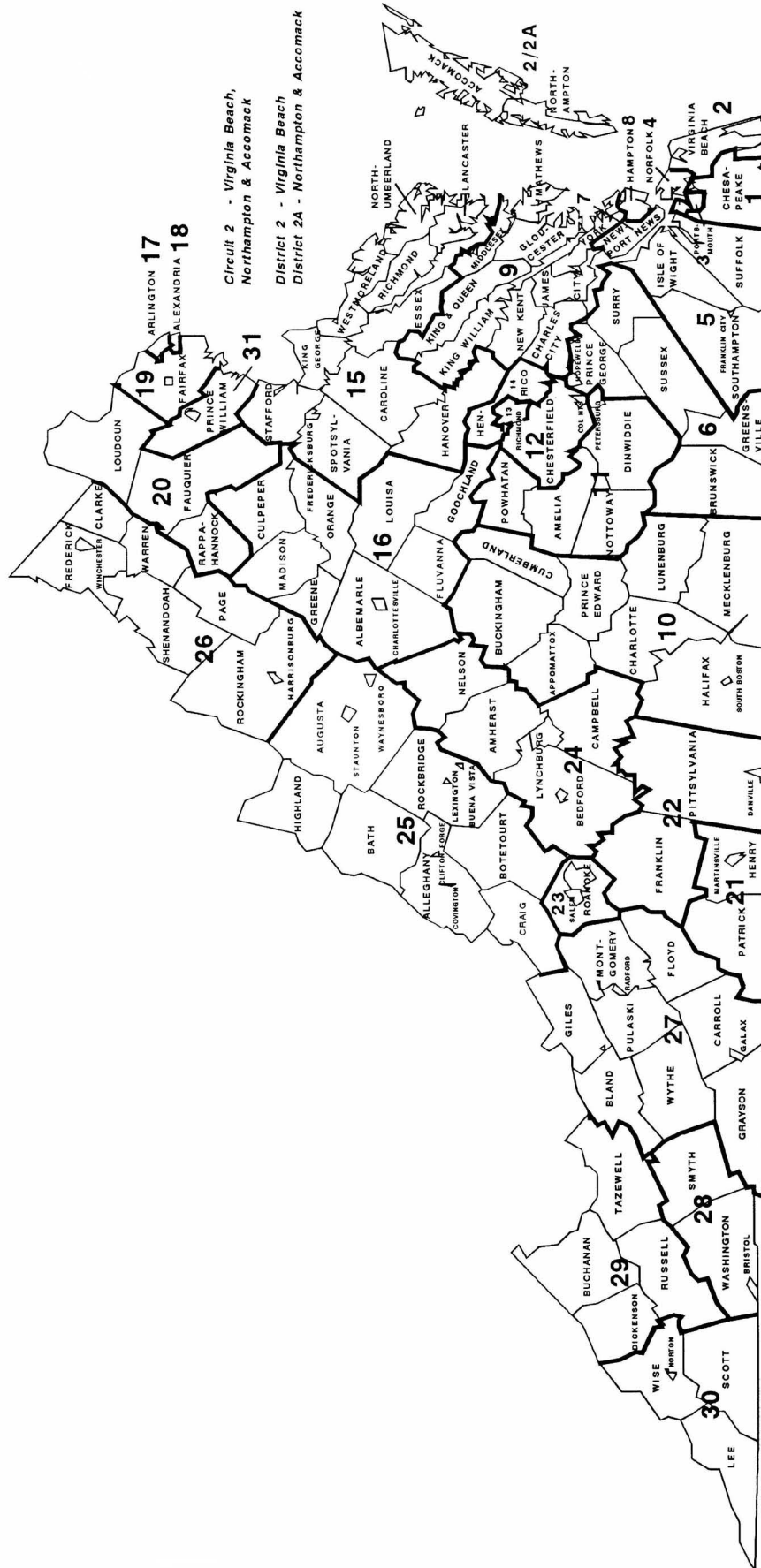
Virginia



*Map of the
Judicial Circuits
and Districts*

2010

Judicial Circuits and Districts of Virginia



Virginia Localities by Judicial Circuit/District

Accomack	2/2A	Giles	27	Powhatan	11
Albemarle	16	Gloucester	9	Prince Edward	10
Alexandria	18	Goochland	16	Prince George	6
Alleghany	25	Grayson	27	Prince William	31
Amelia	11	Greene	16	Pulaski	27
Amherst	24	Greensville	6	Radford	27
Appomattox	10	Halifax	10	Rappahannock	20
Arlington	17	Hampton	8	Richmond County	15
Augusta	25	Hanover	15	Richmond City	13
Bath	25	Harrisonburg	26	Roanoke County	23
Bedford County	24	Henrico	14	Roanoke City	23
Bland	27	Henry	21	Rockbridge	25
Botetourt	25	Highland	25	Rockingham	26
Bristol	28	Hopewell	6	Russell	29
Brunswick	6	Isle of Wight	5	Salem	23
Buchanan	29	James City	9	Scott	30
Buckingham	10	King and Queen	9	Shenandoah	26
Buena Vista	25	King George	15	Smyth	28
Campbell	24	King William	9	Southampton	5
Caroline	15	Lancaster	15	South Boston	10
Carroll	27	Lee	30	Spotsylvania	15
Charles City	9	Lexington	25	Stafford	15
Charlotte	10	Loudoun	20	Staunton	25
Charlottesville	16	Louisa	16	Suffolk	5
Chesapeake	1	Lunenburg	10	Surry	6
Chesterfield	12	Lynchburg	24	Sussex	6
Clarke	26	Madison	16	Tazewell	29
Colonial Heights	12	Manassas	31	Virginia Beach	2
Covington	25	Manassas Park	31	Warren	26
Craig	25	Martinsville	21	Washington	28
Culpeper	16	Mathews	9	Waynesboro	25
Cumberland	10	Mecklenburg	10	Westmoreland	15
Danville	22	Middlesex	9	Williamsburg	9
Dickenson	29	Montgomery	27	Winchester	26
Dinwiddie	11	Nelson	24	Wise	30
Emporia	6	New Kent	9	Wythe	27
Essex	15	Newport News	7	York	9
Fairfax County	19	Norfolk	4		
Fairfax City	19	Northampton	2/2A		
Falls Church	17	Northumberland	15		
Fauquier	20	Norton	30		
Floyd	27	Nottoway	11		
Fluvanna	16	Orange	16		
Franklin County	22	Page	26		
Franklin City	5	Patrick	21		
Frederick	26	Petersburg	11		
Fredericksburg	15	Pittsylvania	22		
Galax	27	Portsmouth	3		

Note	
Circuit 2	Virginia Beach Accomack Northampton
District 2	Virginia Beach
District 2A	Accomack Northampton

Virginia Judicial Circuits and Districts

1	Chesapeake	13	Richmond	25	Alleghany
2	Virginia Beach	14	Henrico		Augusta
2A	Accomack	15	Caroline		Bath
	Northampton		Essex		Botetourt
3	Portsmouth		Fredericksburg		Buena Vista
4	Norfolk		Hanover		Covington
5	Franklin City		King George		Craig
	Isle of Wight		Lancaster		Highland
	Southampton		Northumberland		Lexington
	Suffolk		Richmond		Rockbridge
			Spotsylvania	26	Staunton
			Stafford		Waynesboro
			Westmoreland		
6	Brunswick	16	Albemarle		Clarke
	Emporia		Charlottesville		Frederick
	Greensville		Culpeper		Page
	Hopewell		Fluvanna		Rockingham
	Prince George		Goochland		Harrisonburg
	Surry		Greene		Shenandoah
	Sussex		Louisa	27	Warren
7	Newport News		Madiso		Winchester
			Orange		
8	Hampton	17	Arlington		Bland
			Falls Church		Carroll
9	Charles City				Floyd
	Gloucester	18	Alexandria		Galax
	James City				Giles
	King & Queen	19	Fairfax County		Grayson
	King William		Fairfax City		Montgomery
	Mathews	20	Fauquier		Pulaski
	Middlesex		Loudoun		Radford
	New Kent		Rappahannock	28	Wythe
	Poquoson				
	Williamsburg	21	Henry		Bristol
	York		Martinsville		Smyth
10	Appomattox		Patrick		Washington
	Buckingham				
	Charlotte	22	Danville		29
	Cumberland		Franklin County		Buchanan
	Halifax		Pittsylvania		Dickenson
	Lunenburg				Russell
	Mecklenburg	23	Roanoke City		Tazewell
	Prince Edward		Roanoke County		
			Salem	30	Lee
11	Amelia				Norton
	Dinwiddie	24	Amherst		Scott
	Nottoway		Bedford City		Wise
	Petersburg		Bedford County		
	Powhatan		Campbell		31
12	Chesterfield		Lynchburg		Manassas
	Colonial Heights		Nelson		Manassas Park
					Prince William



